

PREET BHARARA

United States Attorney for the
Southern District of New York

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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	:	DECLARATION IN SUPPORT
UNITED STATES OF AMERICA,	:	<u>OF DEFAULT JUDGMENT</u>
	:	
- v. -	:	15 Civ. 1825 (PGG)
	:	
\$300,000,000 IN UNITED STATES CURRENCY,	:	
	:	
Defendant- <u>in-rem</u> .	:	
	:	
-----	X	

ALEXANDER J. WILSON, pursuant to Title 28, United States Code, Section 1746, declares under penalty of perjury as follows:

1. I am an Assistant United States Attorney in the Office of Preet Bharara, United States Attorney for the Southern District of New York, attorney for plaintiff herein. I am one of the attorneys who have responsibility for the above-captioned matter and, as such, I am familiar with the facts and circumstances set forth herein. This declaration is submitted in support of plaintiff's request for a default judgment as to the Defendant-in-rem in the above-captioned case.

2. On March 12, 2015, as part of a deferred prosecution agreement with Commerzbank AG and Commerzbank AG New York Branch, the United States commenced this civil action seeking the forfeiture of \$300,000,000 in United States currency (the "Defendant

Funds”) by filing a Verified Complaint. A copy of the Verified Complaint is attached hereto as Exhibit A and is fully incorporated by reference herein.

3. In accordance with Rule G(4)(b) of the Supplemental Rules for Admiralty and Maritime Claims and Asset Forfeiture Actions (the “Supplemental Rules”), on or about March 19, 2015, notice of the Verified Complaint was sent by certified mail, return receipt requested, to:

- a. Commerzbank (New York Branch)
c/o Nelson A. Boxer, Esq.
Petrillo Klein & Boxer LLP
655 Third Avenue, 22nd Floor
New York, New York 10017;
- b. Commerzbank AG
c/o Nelson A. Boxer, Esq.
Petrillo Klein & Boxer LLP
655 Third Avenue, 22nd Floor
New York, New York 10017;
- c. Commerzbank AG
c/o David Brodsky, Esq. and Lev Dassin, Esq.
Cleary Gottlieb Steen & Hamilton LLP
One Liberty Plaza
New York, New York 10006; and
- d. Commerzbank (New York Branch)
c/o David Brodsky, Esq. and Lev Dassin, Esq.
Cleary Gottlieb Steen & Hamilton LLP
One Liberty Plaza
New York, New York 10006.

4. The notice letters enclosed a copy of the Verified Complaint, SDNY Electronic Case Filing Rules and Instructions, and the Individual Rules of Practice for the Honorable Paul G. Gardephe and advised the recipients of their client’s possible interest in this action, and of its right to file a claim and answer and contest the forfeiture. A copy of the notice letters sent to Commerzbank AG and Commerzbank (New York Branch) and the receipt

confirmation is attached hereto as Exhibit B. Consistent with Rule G(4)(b)(ii)(B) and Rule G(5)(a)(ii)(A) of the Supplemental Rules, the notice letters provided that Commerzbank AG and Commerzbank (New York Branch) had thirty-five (35) days from the date of the notice letter to file a claim in this action. Thus, Commerzbank AG and Commerzbank (New York Branch) had until April 23, 2015, to file a claim.¹

5. Commerzbank AG and Commerzbank (New York Branch) are the only persons or entities known by plaintiff to have a potential interest in the Defendant Funds.

6. In accordance with Rule G(4)(a) of the Supplemental Rules, notice of this civil forfeiture action was posted on the official government internet site www.forfeiture.gov for at least thirty (30) consecutive days, beginning on March 14, 2015. Proof of publication was filed with the Clerk of the Court on April 16, 2015. A copy of the proof of publication is attached hereto as Exhibit C. Pursuant to Rule G(5)(a)(ii)(B), potential claimants who did not receive direct notice had until May 13, 2015, sixty (60) days after the first day of publication on the official government internet site, to file a claim.

7. Accordingly, the Government has provided adequate notice pursuant to Rule G of the Supplemental Rules.

8. No claims or answers were filed or made in this action, no parties have appeared to contest the action to date, and the requisite time periods in which to do so have expired.

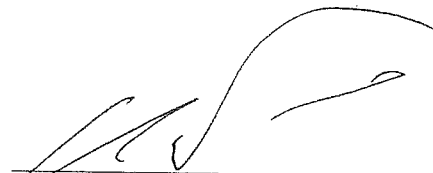
9. A Certification signed by the Clerk of this Court reflecting the default of the parties is attached hereto as Exhibit D.

¹ Pursuant to the deferred prosecution agreement entered between the United States, Commerzbank AG and Commerzbank AG New York Branch, Commerzbank AG and Commerzbank AG New York Branch agreed to entry of a final order of forfeiture in regard to the Defendant Funds. See Verified Complaint, Exh. 1.

10. Because this action is an *in rem* forfeiture action, no inquest into damages is necessary.

11. For the foregoing reasons, the Government respectfully requests that the Court enter the proposed Order to Show Cause, attached hereto as Exhibit E, and the proposed Default Judgment, attached hereto as Exhibit F.

Dated: New York, New York
May 18, 2015



ALEXANDER J. WILSON
Assistant United States Attorney